

§ 222.9

determines otherwise under section 8012 of the Act.

(Approved by the Office of Management and Budget under control number 1810-0036)

(Authority: 20 U.S.C. 7702 and 7703)

§ 222.9 What records must a local educational agency maintain?

Except as otherwise provided in § 222.10—

(a) An LEA must maintain adequate written records to support the amount of payment it received under the Act for any fiscal year;

(b) On request, the LEA must make its records available to the Secretary for the purpose of examination or audit; and

(c) Each applicant must submit such reports and information as the Secretary may require to determine the amount that the applicant may be paid under the Act.

(Approved by the Office of Management and Budget under control number 1810-0036)

(Authority: 20 U.S.C. 1232f, 7702, 7703, 7704, 7706)

§ 222.10 How long must a local educational agency retain records?

An LEA must retain the records described in § 222.9 until the later of—

(a) Three years after the last payment for a fiscal year; or

(b) If the records have been questioned on Federal audit or review, until the question is finally resolved and any necessary adjustments to payments have been made.

(Authority: 20 U.S.C. 1232f, 7702, 7703, 7704, 7706)

§ 222.11 How does the Secretary recover overpayments?

Except as otherwise provided in §§ 222.12–222.18, the Secretary adjusts for and recovers overpayments as follows:

(a) If the Secretary determines that an LEA has received a payment in excess of what it should have received under the Act and this part, the Secretary deducts the amount of the overpayment from subsequent payments for which the LEA is eligible under the Act.

(b)(1) If the LEA is not eligible for subsequent payments under the Act,

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the LEA must promptly refund the amount of the overpayment to the Secretary.

(2) If the LEA does not promptly repay the amount of the overpayment or promptly enter into a repayment agreement with the Secretary, the Secretary may use the procedures in 34 CFR part 30 to offset that amount against payments from other Department programs or, under the circumstances permitted in part 30, to request that another agency offset the debt.

(Authority: 20 U.S.C. 1226a–1, 7702, 7703, 7706, 7712)

[60 FR 50778, Sept. 29, 1995, as amended at 62 FR 35412, July 1, 1997]

§ 222.12 What overpayments are eligible for forgiveness under section 8012 of the Act?

(a) The Secretary considers as eligible for forgiveness under section 8012 of the Act (“eligible overpayment”) any overpayment amount that is more than an LEA was eligible to receive for a particular fiscal year under Public Law 81–874, Public Law 81–815, or the Act (except for the types of overpayments listed in § 222.13), and that—

(1) Remains owing on or after July 31, 1997;

(2) Is the subject of a written request for forgiveness filed by the LEA before July 31, 1997; or

(3) Is the subject of a pending, timely written request for an administrative hearing or reconsideration, and has not previously been reviewed under §§ 222.12–222.18.

(b) The Secretary applies §§ 222.14–222.18 in forgiving, in whole or part, an LEA’s obligation to repay an eligible overpayment that resulted from error either by the LEA or the Secretary.

(Authority: 20 U.S.C. 7712)

[62 FR 35412, July 1, 1997]

§ 222.13 What overpayments are not eligible for forgiveness under section 8012 of the Act?

The Secretary does not consider the following overpayments to be eligible for forgiveness under section 8012 of the Act: